

AMENDED IN ASSEMBLY SEPTEMBER 2, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE MARCH 26, 2003

**SENATE BILL**

**No. 810**

**Introduced by Senator Burton**

(Principal coauthor: Assembly Member Nation)

February 21, 2003

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An act to amend Sections 4514.3, 4582.7, and 4582.75 of, and to add Section 4582.71 to, the Public Resources Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 810, as amended, Burton. Natural resources: timber harvesting.

(1) Existing law exempts timber operations from specified waste discharge requirements if the federal Environmental Protection Agency certifies that provisions of the Z'berg-Nejedly Forest Practice Act of 1973 constitute the best management practices for silviculture pursuant to the Federal Water Pollution Control Act.

This bill would require both the federal Environmental Protection Agency and the State Water Resources Control Board to make that certification. ~~This bill would also require the timber operations to be conducted in a manner that complies with the applicable regional water quality control plan.~~ *after January 1, 2003.*

(2) The Forest Practice Act prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The Forest Practice Act provides that the Director of Forestry and Fire Protection has the final authority to

determine whether a timber harvesting plan conforms with rules and regulations pertaining to timber harvesting.

~~This bill would provide that the federal Environmental Protection Agency, the State Water Resources Control Board, and the appropriate California regional water quality control board have that authority for purposes of determining whether timber operations are exempt from specified waste discharge requirements—director’s authority is for purposes of approval by the department.~~

(3) This bill would prohibit a timber harvesting plan from being approved if the appropriate regional water quality control board finds, *based on substantial evidence*, that the proposed timber operations will result in a discharge ~~in that causes or contributes, or threatens to cause or contribute, to a violation of the regional water quality control plan, as specified.~~ This bill would also provide that if ~~a watercourse has been classified as impaired due to sediment, as specified, a timber harvesting plan may not be approved in that watershed if the appropriate regional water quality control board finds that the rate of timber harvesting in the watershed of the impaired watercourse is not consistent with, or would impede recovery of, the beneficial uses of the impaired watercourse as specified in the regional water quality control plan~~ *a regional water quality control board may delegate that authority to the board’s executive officer as long as the executive officer’s determination is subject to review by the board upon request of the person that has submitted the timber harvesting plan or upon motion of the board.*

(4) Existing law provides that rules adopted by the State Board of Forestry and Fire Protection shall be the only criteria employed by the director when he or she reviews timber harvesting plans, as specified.

This bill would require that the provisions of the Forest Practice Act also apply to that review.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 4514.3 of the Public Resources Code is
- 2 amended to read:
- 3 4514.3. (a) Timber operations conducted pursuant to this
- 4 chapter are exempt from the waste discharge requirements of
- 5 Article 4 (commencing with Section 13260) of Chapter 4 of
- 6 Division 7 of the Water Code as long as both the federal



Environmental Protection Agency and the State Water Resources Control Board certify *after January 1, 2003*, that the provisions of this chapter constitute best management practices for silviculture pursuant to Section 208 of the Federal Water Pollution Control Act, ~~and the timber operations are conducted in a manner that complies with the applicable regional water quality control plan, as determined by the appropriate regional water quality control board.~~

(b) The exemption contained in subdivision (a) does not apply when any of the following occurs:

(1) The board requests issuance of waste discharge requirements.

(2) There has been a finding by the State Water Resources Control Board that the board has failed to maintain a water quality regulatory process consistent with the certification required under subdivision (a).

(3) After monitoring the water quality impacts from timber operations conducted in compliance with this chapter, there has been a finding by the State Water Resources Control Board that compliance with best management practices would result in less water quality protection than required in water quality control plans approved pursuant to Section 13245 of the Water Code.

SEC. 2. Section 4582.7 of the Public Resources Code is amended to read:

4582.7. (a) The director shall have 30 days from the date that the initial inspection is completed (10 of these days shall follow the date of final interagency review) or, if the director determines that the inspection need not be made, 15 days from the date of filing, as specified in Section 4604, or a longer period mutually agreed upon by the director and the person submitting the timber harvesting plan, to review the plan and take public comments. After the final review and public comment period has ended, the director shall have up to 15 working days, or a longer period mutually agreed upon by the director and the person submitting the plan, to review the public input, to consider recommendations and mitigation measures of other agencies, to respond in writing to the issues raised, and to determine if the plan is in conformance with the rules and regulations of the board and with this chapter.

(b) If the director determines that the timber harvesting plan is not in conformance with the rules and regulations of the board or

1 with this chapter, the director shall return the plan, stating his or  
2 her reasons in writing, and advising the person submitting the plan  
3 of the person's right to a hearing before the board, and timber  
4 operations may not commence.

5 (c) A person to whom a timber harvesting plan is returned may,  
6 within 10 days from the date of receipt of the plan, request of the  
7 board a public hearing before the board. The board shall schedule  
8 a public hearing to review the plan to determine if the plan is in  
9 conformance with the rules and regulations of the board and with  
10 this chapter. Timber operations shall await board approval of the  
11 plan. Board action shall occur within 30 days from the date of the  
12 filing of the appeal, or a longer period mutually agreed upon by the  
13 board and the person filing the appeal.

14 (d) If the timber harvesting plan is not approved on appeal to  
15 the board, the plan may be found to be in conformance by the  
16 director within 10 days from the date of the board action, provided  
17 that the plan is brought into full conformance with the rules and  
18 regulations of the board and with this chapter. If the director does  
19 not act within 25 days or a longer period mutually agreed upon by  
20 the director and the person submitting the plan, timber operations  
21 may commence pursuant to the plan, and all provisions of the plan  
22 shall be followed as provided in this chapter.

23 (e) Upon the request of a responsible agency, the director shall  
24 consult with that agency, pursuant to this chapter, but the director,  
25 or his or her designee within the department, shall have the final  
26 authority to determine whether a timber harvesting plan is in  
27 conformance with the rules and regulations of the board and with  
28 this chapter, ~~except as provided in Section 4514.3 for purposes of~~  
29 ~~approval by the department.~~

30 SEC. 3. Section 4582.71 is added to the Public Resources  
31 Code, to read:

32 4582.71. (a) A timber harvesting plan may not be approved  
33 if the appropriate regional water quality control board finds, *based*  
34 *on substantial evidence*, that the timber operations proposed in the  
35 plan will result in a discharge ~~in that causes or contributes, or~~  
36 ~~threatens to cause or contribute, to a violation of the regional~~  
37 ~~water quality control plan.~~

38 ~~(b) In a watercourse that has been classified as impaired due to~~  
39 ~~sediment pursuant to subsection (d) of Section 303 of the Federal~~  
40 ~~Water Pollution Control Act, a timber harvesting plan may not be~~

~~approved if the appropriate regional water quality control board finds that the rate of timber harvesting in the watershed of the impaired watercourse, including the timber operations in the proposed timber harvesting plan, is not consistent with, or would impede recovery of, the beneficial uses of the impaired watercourse as specified in the regional water quality control plan.~~

*(b) The exercise of a regional water quality control board's authority pursuant to subdivision (a) may be delegated to the executive officer of that regional water quality control board as long as the executive officer's determination is subject to review by that regional water quality control board upon request of the person that has submitted the timber harvesting plan or upon motion of that regional water quality control board.*

*(c) If the appropriate regional water quality control board makes a finding pursuant to subdivision (a), the executive officer of that regional water quality control board shall, before the close of the public comment period under Section 4582.7, notify the director in writing of the finding and advise the director that the plan may not be approved. If the issues that lead to a regional water quality control board's finding pursuant to subdivision (a) cannot be resolved during the director's determination period under Section 4582.7 or a longer period that is mutually agreeable to the director and the person that submitted the timber harvesting plan, the director shall deny the timber harvesting plan and return the plan to the person that submitted it. The director shall advise the person that submitted the timber harvesting plan of the reasons why the plan is being returned.*

SEC. 4. Section 4582.75 of the Public Resources Code is amended to read:

4582.75. The rules adopted by the board and the provisions of this chapter shall be the only criteria employed by the director when reviewing timber harvesting plans pursuant to Section 4582.7.